

# Exhibit 1

**Plaintiffs' Witness List**

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Brian Acton	WhatsApp/Signal	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition	0.75	Acquisition and integration of WhatsApp; applications; topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.
Jacob Andreou	Snap	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between Snapchat, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.

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\* To the extent the witness is unavailable to testify live, Plaintiffs reserve the right to call the witness by videotaped deposition and/or reallocate time

<sup>1</sup> Meta states that Plaintiffs' witness list is unreasonably long and overbroad relative to the needs of the case. Additionally, it includes numerous "will call live" witnesses who are outside the Court's subpoena power and/or whose attendance at trial is not warranted given the scope of the case, and Meta reserves the right to object to any attempt by Plaintiffs to compel the attendance of such witnesses at the appropriate time. Meta has also requested that Plaintiffs provide a reasonable, good faith witness list and has proposed a timeline for further narrowing of witness disclosures—Plaintiffs have ignored Meta's requests. Moreover, certain witnesses appear to be disclosed for the purpose of testifying about irrelevant or prejudicial matters, including claims and theories that the Court has already dismissed. *See* Dkt. 214. Meta reserves the right to object to the introduction of any such testimony or to Plaintiffs calling a witness for any such impermissible purpose. Meta also objects to Plaintiffs' apparent intention to call witnesses live for the purpose of offering Rule 30(b)(6) testimony.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Lars Backstrom	Meta	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.
Rachel Banks Kupcho	Plaintiff	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	0.33	Plaintiffs' claims and allegations; antitrust injury; timeliness of claims; topics covered in her deposition; topics covered in Plaintiffs' examination	45 mins.
David Baser	Meta	Will call live at trial	Facebook's deception; Harm to competition	1	Data tools and applications; topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.
Sagee Ben-Zedeck	Meta	Will call live at trial (individual/30b6)	Harm to competition; Damages	1	Meta's market intelligence and research programs; topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Andrew Bosworth	Meta	May call live at trial and/or use deposition testimony (individual/30b6)	Facebook's deception; Market definition and power; Harm to competition; Damages	0.5	Meta's privacy and data use policies; data tools and applications; product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.
Blake Chandlee	TikTok	Will call live at trial	Market definition and power	0.5	Competition between TikTok, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Stacy Chen	Meta	Will call live at trial (individual/30b6)	Facebook's deception	1	Topics covered in her deposition; topics covered in Plaintiffs' examination	15 mins.
Keith Coleman	Twitter	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between Twitter, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Chris Cox	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1	Meta's business and competition; data tools and applications; Meta user preferences; product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	25 mins.
Henry Crum	Meta	May call live at trial and/or use deposition testimony	Harm to competition; Damages	1	Product improvement and innovation; signal loss; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Tom Cunningham	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1.25	Topics covered in his deposition; topics covered in Plaintiffs' examination	25 mins.
Chris DeWolfe	MySpace	May call live at trial and/or use deposition testimony	Facebook's deception; Market definition and power; Harm to competition; Damages	1	Competition between Meta and Myspace; advertising on Meta platforms; topics covered in his deposition; topics covered in Plaintiffs' examination	1 hr.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Nicholas Economides	Plaintiff Expert	Will call live at trial	Facebook's deception; Harm to competition	2	Topics covered in his deposition; topics covered in his expert reports; topics covered in Plaintiffs' examination	1.5 hrs.
Erin Egan	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1.5	Meta's privacy and data use policies; data tools and applications; topics covered in her deposition; topics covered in Plaintiffs' examination	1 hr.
Jon Eide	Meta	May call live at trial and/or use deposition testimony	Harm to competition; Damages	0.5	Data tools and applications; advertising product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	10 mins.
Joseph Farrell	Plaintiff Expert	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition	2	Topics covered in his deposition; topics covered in his expert reports; topics covered in Plaintiffs' examination	1.25 hrs.
John Fernandes	Meta	Will call live at trial	Facebook's deception; Harm to competition	0.75	Topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Aaron Filner	YouTube	May call live at trial and/or use deposition testimony (individual/30b6)	Market Definition	0.25	Competition between Meta, YouTube, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
David Fischer	Meta	May call live at trial and/or use deposition testimony	Facebook's deception; Market definition and power; Harm to competition; Damages	0.75	Advertising product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Naomi Gleit	Meta	May call live at trial and/or use deposition testimony	Facebook's deception; Market definition and power; Harm to competition; Damages	1	Meta's business and competition; data tools and applications; Meta's privacy and data use policies; topics covered in her deposition; topics covered in Plaintiffs' examination	30 mins.
Rob Goldman	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1	Advertising product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Sarah Grabert	Plaintiff	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	0.33	Plaintiffs' claims and allegations; antitrust injury; timeliness of claims; topics covered in her deposition; topics covered in Plaintiffs' examination	45 mins.
Bradley Horowitz	Alphabet	May call live at trial and/or use deposition testimony (individual/30b6)	Facebook's deception; Market definition and power; Harm to competition	1	Competition between Meta and Google+; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Thomas Kim	YouTube	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between Meta, YouTube, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Maximilian Klein	Plaintiff	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	0.33	Plaintiffs' claims and allegations; antitrust injury; timeliness of claims; topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.
Sarah Lamdan	Plaintiff Expert	Will call live at trial	Facebook's deception; Harm to competition	1.25	Topics covered in her deposition; topics covered in her expert reports; topics covered in Plaintiffs' examination	1 hr.



<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Fred Leach	Meta	May call live at trial and/or use deposition testimony (individual/30b6)	Facebook's deception; Harm to competition	0.5	Topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.
David Levenson	Snap	Will call live at trial (individual/30b6)	Facebook's deception; Market definition and power; Harm to competition	1	Competition between Snapchat, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.
Dan Levy	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1	Signal loss; advertising product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.
Reid Maker	Microsoft	May call live at trial and/or use deposition testimony (individual/30b6)	Harm to competition; Damages	0.5	Microsoft Rewards; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Erez Naveh	Meta	Will call live at trial	Harm to competition; Damages	1	Meta's market intelligence and research programs and privacy disclosures; Onavo apps and privacy disclosures; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Javier Olivan	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	2	Meta's business and competition; data tools and applications; Onavo; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.
Vanessa Pappas	TikTok	May call live at trial and/or use deposition testimony	Market definition and power	0.25	Documents or data related to competition; relevant markets; topics covered in her deposition; topics covered in Plaintiffs' examination	10 mins.
Sandy Parakilas	Meta	May call live at trial and/or use deposition testimony	Facebook's deception; Harm to competition	1	Topics covered in his deposition; topics covered in Plaintiffs' examination	20 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Jay Parikh	Meta	May call live at trial and/or use deposition testimony	Facebook's deception; Harm to competition	0.5	Meta's privacy and data use policies; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Keval Patel	Meta	Will call live at trial	Market definition and power; Harm to competition; Damages	1.5	Meta's business and competition; advertising product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.
Tim Perzyk	Twitter	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between TikTok, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.
Adam Presser	TikTok	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between TikTok, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	15 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Michel Protti	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1.5	Meta's privacy and data use policies; data tools and applications; topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.
Winter Raymond	Reddit	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between Reddit, Meta, and other apps; topics covered in her deposition; topics covered in Plaintiffs' examination	15 mins.
Julia Roberts	Pinterest	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.25	Competition between Pinterest, Meta, and other apps; topics covered in her deposition; topics covered in Plaintiffs' examination	15 mins.
Dan Rose	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1	Meta's business and competition; data tools and applications; product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Sheryl Sandberg	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	3	Meta's business and competition; advertising market and competition; product improvement and innovation; topics covered in her deposition; topics covered in Plaintiffs' examination	1 hr.
Ben Savage	Meta	May call live at trial and/or use deposition testimony (individual/30b6)	Facebook's deception; Harm to competition	1	Topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.
Barry Schnitt	Meta	May call live at trial and/or use deposition testimony (individual/30b6)	Facebook's deception; Harm to competition	1	Meta's privacy and data use policies and practices; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.
Elliot Schrage	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	3	Meta's privacy and data use policies; topics covered in his deposition; topics covered in Plaintiffs' examination	1 hr.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Alex Schultz	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	2	Meta's business and competition; Meta's user preferences; data tools and applications; product improvement and innovation; advertising product improvement and innovation; topics covered in his deposition; topics covered in Plaintiffs' examination	2 hrs.
Ronak Shah	Apple	May call live at trial and/or use deposition testimony (individual/30b6)	Market definition and power	0.75	Competition between iMessage, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.
Fidji Simo	Meta	May call live at trial and/or use deposition testimony	Facebook's deception; Market definition and power; Harm to competition; Damages	1.25	Facebook Watch; Meta's business model; topics covered in her deposition; topics covered in Plaintiffs' examination	45 mins.
Gregg Stefancik	Meta	Will call live at trial (individual/30b6)	Facebook's deception; harm to competition	1.5	Topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Bret Taylor	Meta	Will call live at trial	Facebook's deception; harm to competition	1.25	Meta's statements regarding its privacy and data collection practices; Meta's business and competition; data tools and applications; topics covered in his deposition; topics covered in Plaintiffs' examination	30 mins.
David Wehner	Meta	May call live at trial and/or use deposition testimony (individual/30b6)	Facebook's deception; Market definition and power; Harm to competition; Damages	1.25	Advertising product improvement and innovation; data tools and applications; signal loss; topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.
Mark Weinstein	MeWe	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	1.5	Competition between MeWe, Meta, and other apps; topics covered in his deposition; topics covered in Plaintiffs' examination	45 mins.

<b>Witness</b>	<b>Party Affiliation</b>	<b>May Call or Will Call*</b>	<b>Substance of Plaintiff's Examination</b>	<b>Plaintiffs' Time Estimate</b>	<b>Substance of Meta's Examination<sup>1</sup></b>	<b>Meta's Time Estimate</b>
Mark Zuckerberg	Meta	Will call live at trial	Facebook's deception; Market definition and power; Harm to competition; Damages	3	Meta's business and competition; advertising and user markets; Meta's statements regarding its privacy and data collection practices; Meta infrastructure; topics covered in his deposition; topics covered in Plaintiffs' examination	1 hr.



**Meta's Witness List**

This list contains Meta's current, good faith list of the witnesses Meta may or will call during its case-in-chief, live or by deposition, in the event that the trial goes forward on November 17, 2025. Meta reserves the right to amend this list in the event that the scope of issues or claims to be tried changes, if any witness becomes unavailable, or in light of new information that becomes known. Meta further reserves the right to call any witness on Plaintiffs' list in its case-in-chief or withdraw any witness currently included on this list. Meta further reserves the right to call any other witness for impeachment or rebuttal, or to call witnesses necessary to authenticate exhibits.

<b>Witness</b>	<b>May Call or Will Call</b>	<b>Substance of Meta's Examination</b>	<b>Meta's Time Estimate</b>	<b>Substance of Plaintiffs' Examination</b>	<b>Plaintiffs' Time Estimate</b>
<b>Meta Employee Witnesses</b>					
Tom Alison	May Call	Meta's business and competition; product improvement and innovation.	1 hr.	Facebook's deception; market definition and power; harm to competition; damages; topics covered in Meta's examination.	45 minutes
Ime Archibong	May Call	Facebook Platform; Meta's commercial relationships; data tools and applications.	1 hr.	Facebook's deception; market definition and power; harm to competition; damages; topics covered in Meta's examination.	45 minutes
Lars Backstrom	May Call	Topics covered in his deposition.	45 mins.	Topics covered in his deposition; topics covered in Meta's examination.	45 minutes
David Baser	May Call	Data tools and applications; topics covered in his deposition.	45 mins.	Facebook's deception; harm to competition; topics covered in his deposition; topics covered in Meta's examination.	45 minutes

Curtiss Cobb	May Call	Meta user preferences; Meta user surveys regarding privacy and data collection.	45 mins.	Facebook's deception; market definition and power; harm to competition; damages; topics covered in Meta's examination.	45 minutes
Erin Egan	May Call	Meta's privacy and data use policies; data tools and applications; topics covered in her deposition.	1 hr.	Facebook's deception; harm to competition; topics covered in her deposition; topics covered in Meta's examination.	1 hour
Alex Schultz	May Call	Meta's business and competition; Meta user preferences; data tools and applications; product improvement and innovation; topics covered in his deposition.	2 hrs.	Facebook's deception; market definition and power; harm to competition; damages; topics covered in his deposition; topics covered in Meta's examination.	1.5 hours
<b>Non-Party Witnesses</b>					
Chris DeWolfe	May Call	Competition between Meta and Myspace; topics covered in his deposition.	1 hr.	Topics covered in Meta's examination; topics covered in his deposition.	30 minutes
Reid Maker	May Call	Microsoft Rewards; topics covered in his deposition.	30 mins.	Topics covered in Meta's examination; topics covered in his deposition.	30 minutes
Debbie Weinstein	May Call	Competition between Meta and YouTube; topics covered in his deposition.	30 mins.	Topics covered in Meta's examination; topics covered in his deposition.	30 minutes
<b>Plaintiff Witnesses</b>					
Rachel Banks Kupcho	Will Call	Plaintiffs' claims and allegations; antitrust injury; timeliness of claims; topics covered in her deposition.	45 mins.	Topics disclosed in Plaintiffs' Witness List.	20 minutes

Sarah Grabert	Will Call	Plaintiffs' claims and allegations; antitrust injury; timeliness of claims; topics covered in her deposition.	45 mins.	Topics disclosed in Plaintiffs' Witness List.	20 minutes
Maximilian Klein	Will Call	Plaintiffs' claims and allegations; antitrust injury; timeliness of claims; topics covered in her deposition.	45 mins.	Topics disclosed in Plaintiffs' Witness List.	20 minutes
<b>Expert Witnesses</b>					
Dennis Carlton	Will Call	Topics covered in his expert reports and deposition.	2 hrs.	Topics covered in his expert reports and deposition.	1.5 hrs
Anindya Ghose	Will Call subject to the Court's ruling on Meta's conditional proffer. Dkt. 822.	Topics covered in his expert reports and deposition.	1 hr.	Topics covered in his expert reports and deposition.	45 mins
John List	Will Call	Topics covered in his expert reports and deposition.	1 hr.	Topics covered in his expert reports and deposition.	1 hr
Catherine Tucker	Will Call	Topics covered in her expert reports and depositions.	1.5 hrs.	Topics covered in his expert reports and deposition.	1.5 hrs

**Plaintiffs' Objections:** Plaintiffs object to any attempt by Meta to call Tom Alison, Ime Archibong, or Curtis Cobb at trial. These witnesses were untimely disclosed by Meta during discovery, and consequently, Plaintiffs were unable to take their depositions. In Meta's August 13, 2021 initial disclosures, Meta identified seven of its corporate employees "as likely to have discoverable information that Facebook may use to support its defenses." Mr. Alison, Mr. Archibong, and Mr. Cobb were not identified at this time, and not one of the seven employees who actually were identified appears on Meta's final witness list. Subsequently, Plaintiffs began deposing the witnesses that Meta had disclosed, as well as several other Meta witnesses who were deposed in the parallel FTC litigation. After **twenty** such depositions had occurred (and many others were scheduled), on May 1, 2023, a month and half before the end of fact discovery on June 23, 2023, Meta served a "Supplemental" set of initial disclosures which identified **twenty-three**

previously undisclosed employee witnesses, including Mr. Alison, Mr. Archibong, and Mr. Cobb.<sup>1</sup> Meta's belated disclosure of these witnesses at the end of fact discovery is sandbagging, and violates the disclosure requirements of Federal Rule of Civil Procedure 26(a), as it effectively foreclosed Plaintiffs from taking the depositions of these late-disclosed witnesses. When Meta included Mr. Alison, Mr. Archibong, and Mr. Cobb on its witness list, Plaintiffs attempted to resolve this issue without Court intervention by requesting that Meta provide dates when Mr. Alison, Mr. Archibong, and Mr. Cobb were available to have their depositions taken before trial. Meta refused to have these witnesses sit for deposition. Meta should not be permitted to have witnesses testify at trial whom it prevented Plaintiffs from deposing through Meta's untimely disclosures. Meta contends that Plaintiffs should have turned on a dime and deposed twenty-three Meta employees with a month and a half left in fact discovery, in addition to taking other party and non-party depositions that were already scheduled, and that they did not, which is their own fault. This assertion lacks any connection to reality. There was not sufficient time to prepare for and take twenty-three depositions in a month-and-a-half, particularly given the numerous other depositions that had already been scheduled. Anyway, given the deposition hours cap in this case, Plaintiffs were prohibited from taking twenty-three additional depositions of Meta employees. Moreover, Meta's assertion that its late-disclosure of witnesses was not "sandbagging" is refuted by its own admissions that it did not agree to apply search terms to Mr. Alison's custodial documents, and additionally reviewed documents of all three witnesses as part of its document production yet did not identify them as having relevant information until the eve of the close of fact discovery. Meta may amply put on its defense through the more than forty current and former Meta employees whom Plaintiffs deposed in this action. Meta's late-disclosed witnesses must be excluded from testifying as Meta's untimely disclosures were neither substantially justified nor harmless. *See* Fed. R. Civ. P. 37(c)(1).

Plaintiffs further object to Meta's designation of each of its employee witnesses on its list as a "May Call" witness. At a minimum, Meta should be able to identify at least one Meta corporate representative as a "Will Call" witness at this stage. Plaintiffs raised this issue to Meta more than six days before the Joint Witness List was due, but Meta refused to provide an amended version. Because Plaintiffs cannot know who, if anyone, Meta will call in its case in chief, Plaintiffs' time estimates for their cross examinations of Meta's witnesses are necessarily preliminary.

Plaintiffs further object to Meta's witness list to the extent that Meta intends to call Plaintiffs Maximilian Klein, Sarah Grabert, and Rachel Banks Kupcho during Meta's case in chief. Each Plaintiff intends to testify during Plaintiffs' case, and Meta can cross examine each witness at that time.

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<sup>1</sup> Even Meta's "Supplemental" initial disclosures and its "Third Supplemental" initial disclosures—which were served on the final day of fact discovery—did not identify Mr. Backstrom. Nevertheless, because Plaintiffs were able to depose Mr. Backstrom through their own initiative, Plaintiffs do not presently object to his inclusion on Meta's witness list.

Plaintiffs further object to any attempt by Meta to call a witness during its own case whom it refused to make available to testify during Plaintiffs' case.

Plaintiffs have provided their portions of the above-disclosure subject to, and without waiving, its objections.

**Meta's Response:** Plaintiffs' objection to the potential testimony of Tom Alison, Ime Archibong, and Curtiss Cobb is meritless. All three witnesses were timely disclosed on Meta's initial disclosures during fact discovery as individuals Meta intended to rely on to support its defenses. Plaintiffs had ample opportunity to take depositions of all three of these witnesses but made the strategic decision not to do so. Plaintiffs cite no authority for their remarkable contention that the disclosure of witnesses *nearly two months before* the close of fact discovery is somehow "untimely." That is because there is none.

Nor do Plaintiffs have any basis to claim that they were somehow prevented from deposing these witnesses. The deposition protocol in this case permitted Plaintiffs to take up to *fifty* depositions of current and former Meta employees and allowed Plaintiffs *260* hours of deposition time to do so. Dkt. 448. When Meta served its supplemental disclosures naming Alison, Archibong, and Cobb, Plaintiffs were still entitled to take *thirty* additional Meta fact witness depositions, and had over *140* hours of on-the-record time remaining to do so. In the 28 months they have been listed on Meta's initial disclosures, Plaintiffs did not request depositions of any of these witnesses until six days ago. And indeed, if Plaintiffs genuinely believed that they needed more deposition time in order to take these depositions during fact discovery, they could have raised the issue with Meta or the Court, but they did not do either. Plaintiffs cannot credibly claim to be prejudiced by their own choice not to use any of their available time to depose Alison, Archibong, and Cobb.

As is routine practice in civil litigation—and as Plaintiffs themselves did in this case multiple times—Meta updated its initial disclosures while fact discovery was ongoing to include additional witnesses, including many that Plaintiffs had already deposed. These witnesses were included, in part, because it became clear through the first twenty depositions Plaintiffs took and others they requested that Plaintiffs were seeking to rely primarily on testimony from witnesses without detailed knowledge of how Meta's services work or how Meta's privacy and data use practices affected (or did not affect) the competitive landscape in which Meta operates. Accordingly, Meta disclosed Tom Alison, the Head of Facebook, Curtiss Cobb, the Head of Demography and Survey Science, and Ime Archibong, who served as Vice President of Product Partnerships that are at the center of Plaintiffs' deception allegations. Plaintiffs did not object to the timing of that supplementation (and never have until this submission)—and for good reason.

The notion that Plaintiffs were "sandbagged" by Meta's identification of these witnesses defies credulity. Clearly, Tom Alison, the head of the Facebook app, would be an obvious prospect for deposition by any reasonable plaintiffs' counsel in a case where Plaintiffs are claiming they should be paid for using Facebook. His job title is not a secret. Likewise, Ime Archibong is on or quoted in multiple documents cited in Plaintiffs' *own Complaint*, and indeed is on Plaintiffs' own operative initial disclosures. Plaintiffs also

received over 12 million pages of documents that Meta had produced to regulators in early 2021, almost immediately after this case was filed, Dkt. 82, and by their own admission identified dozens of other witnesses for deposition without the assistance of Meta's initial disclosures. Furthermore, Archibong was an agreed-upon document custodian in this case and Meta produced over **78,000** documents that Archibong is on or the custodian of. Plaintiffs have also purported to "reserve the right to rely upon ... persons disclosed by ... Advertiser Plaintiffs," and Archibong has been on Advertiser Plaintiffs' initial disclosures for over four years. Plaintiffs requested that Meta include Alison as a document custodian in **March 2022** before later voluntarily withdrawing their request (contrary to Plaintiffs' misleading assertion that Meta "did not agree" to search his documents). Nevertheless, Meta produced nearly 10,000 documents that Alison is on or the custodian of and nearly 9,000 such documents for Cobb.

There is no basis to preclude Meta from calling these witnesses. Nor is there any basis for Plaintiffs to take additional depositions before trial. Fact discovery has been over for more than two years. As the Court has already observed, Plaintiffs "had more than a country mile to do whatever [they] wanted, and [they] directed [their] discovery in a way that was totally up to [them]." Dkt. 630, June 22, 2023 Hr'g Tr. 9:3-8. Plaintiffs were not "shortchanged," have already "gotten far more than [they] probably should have," and are "not in a position to complain." *Id.* at 9:10-16; *see also id.* at 24:9-14 (denying Plaintiffs' request to extend deadlines).

Plaintiffs' objection to Meta listing seven of its employees as "may call" witnesses is likewise baseless. There is no conceivable prejudice to Plaintiffs from this designation and Plaintiffs articulate none. As Meta already explained to Plaintiffs, the may-call designations accurately reflect Meta's current intentions with respect to those witnesses. Meta has no burden of proof in this case and is not obligated, as Plaintiffs seem to suggest, to call any of its employees at trial. Indeed, doing so may be unnecessary, as Plaintiffs have indicated they intend to call as many as 56 witnesses in their case-in-chief, including several of the witnesses on Meta's witness list.

Plaintiffs' last two objections are premature and baseless. Meta is entitled to call the Plaintiffs in its case-in-chief, and will do so if Plaintiffs do not. And Meta has not attempted to "call a witness during its own case whom it refused to make available to testify during Plaintiffs' case." Meta has also told Plaintiffs it will work in good faith to coordinate scheduling of testimony for witnesses where there are scheduling constraints.